

The record herein consists of the documents filed of record with the Division of Workers Compensation in this docketed matter, including the transcript of Preliminary Hearing held June 14, 1994, before Administrative Law Judge John D. Clark, and the exhibits attached thereto.

ISSUES

- (1) Did the Administrative Law Judge exceed his jurisdiction in denying vocational rehabilitation to the claimant?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for purpose of preliminary hearing, the Appeals Board finds:

This matter stems from a preliminary hearing held June 14, 1994, wherein Administrative Law Judge John D. Clark took the issue of respondent's objection to vocational rehabilitation under advisement pending a settlement conference. In its Order dated July 6, 1994, the Appeals Board found that K.S.A. 44-534a requires the Administrative Law Judge to make an initial determination of the issues pertaining to the claimant's entitlement to benefits within five (5) days.

On July 11, 1994, in response to the Appeals Board's Order, Administrative Law Judge John D. Clark issued an Order sustaining the respondent's objection to the proposed vocational rehabilitation plan submitted by claimant. It is from this Order that claimant's appeal stems.

K.S.A. 44-551 limits the jurisdiction of the Appeals Board to appeals from Preliminary Hearing Orders only when it is alleged that the Administrative Law Judge has exceeded his or her jurisdiction in granting or denying the relief requested. K.S.A. 44-534a lists specific findings which may be considered jurisdictional and therefore subject to review with these findings being limited to whether the employee suffered an accidental injury, whether the injury arose out of and in the course of the employee's employment, whether notice is given or claim timely made, or whether certain defenses apply. Noticeably absent from this list of findings is the issue regarding entitlement to vocational rehabilitation benefits. The Appeals Board finds that it does not have jurisdiction to entertain this appeal of the Preliminary Hearing Order of Administrative Law Judge John D. Clark, dated July 11, 1994.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order dated July 11, 1994, by Administrative Law Judge John D. Clark, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of September, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

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